

EUGENE CITY COUNCIL

AGENDA ITEM SUMMARY



Work Session: Disadvantaged/Minority City Contracting

Meeting Date: September 22, 2014
Department: Central Services
www.eugene-or.gov

Agenda Item Number: 3
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ISSUE STATEMENT

This work session provides an opportunity for the City Council to review and discuss current City policy and practice for contracting with Minority, Women Owned Businesses, Emerging Small Businesses (MWESB) and Disadvantaged Business Enterprises (DBE).

BACKGROUND

Public Purchasing Authority

All public purchasing activities in the State of Oregon are guided by Oregon Revised Statutes (ORS) 279A, B, and C. Many sections of the statute do not give specific direction but instruct local governments to develop their own rules. Local government rules may be more restrictive than state statute but cannot be more permissive. In 2005, the legislature directed the Attorney General to develop model rules that local governments may choose to use in whole or as a guide.

Eugene is a home-rule city, meaning we follow our own City codes and rules. The council adopted the Public Contract Code, sections 2.1400 to 2.1450, to be consistent with ORS. Rather than use the Attorney General's model rules to guide purchasing activity, City Code allowed for development of Eugene's own comprehensive rules via administrative order. The council will learn more about this in October when action is taken on amendments to the code.

ORS includes rules pertaining to contracting with Minorities, Women and Emerging Small Businesses (MWESB). ORS section 279A.100 (3) and the City of Eugene's Public Contracting Regulations allow the City to limit competition for the procurement of goods and services, or on other public contracts if the estimated cost is less than \$50,000 to accomplish affirmative action goals.

Additionally, ORS 279A.105 and the City's Public Contracting Regulations state the Solicitation Agent may require a contractor to subcontract some part of a contract to, or to obtain materials to be used in performing the contract from, a person that is certified as disadvantaged (DBE), a minority, a woman or an emerging small business enterprise.

Purchasing Policy and Practice

The City of Eugene's Public Procurement Code provides the foundation for City staff when making purchases using tax payer dollars. The City's purchasing policy is written to utilize public

contracting practices and methods that maximize the efficient use of public resources and the purchasing power of public funds by:

- (a) Promoting impartial and open competition;
- (b) Using solicitation materials that are complete and contain a clear statement of contract specifications and requirements; and
- (c) Taking full advantage of evolving procurement methods that suit the contracting needs of the City as they emerge within various industries.

Additionally, there are often competing goals in regards to finding efficiencies and savings and creating opportunities for MWESB/DBE. During the FY15 budget process, the Finance Investigative Team explored the idea of using cooperative purchasing and contracting partnerships for ongoing cost savings. The City does utilize cooperative agreements extensively and this option can provide savings. However, the drawback to this purchasing approach is that many cooperative agreements are with large, national corporations, thus presenting a challenge for the City to create an opportunity for MWESB/DBE to compete.

The Purchasing Office continues to make efforts to diversify the businesses with whom they contract. Ongoing budget constraints have reduced staffing, creating a challenge for developing a robust program for expanding access for MWESB/DBE to do business with the City. It is the policy of the City, however, that MWESB/DBE be afforded equal opportunity to participate in solicitation processes when competing for City business. The City strives to reach a diverse vendor base in order to obtain best value for the City in alignment with other policies and council goals. State and federally funded public improvement bids are subject to MWESB/DBE requirements. Most of the City's projects funded in this way are transportation related. In those cases, the State of Oregon determines the MWESB/DBE goals on a project-by-project basis depending on the nature and size of the contract. Public Works Engineering uses the Oregon Department of Transportation's list of registered MWESB/DBE as a reference when notifying vendors of bid opportunities. Every solicitation document includes a Sustainability Exhibit which contains the following language:

SOCIAL EQUITY

4.1 The City supports the utilization of Minority, Women, Emerging Small Businesses (M/W/ESB), local businesses, Disadvantaged Business Enterprises and Qualified Rehabilitation Facilities (QRF) at both a prime and subcontracting and/or supply chain level. The City encourages the awarded offeror to use the following voluntary practices to promote open competitive opportunities for disadvantaged businesses.

Access the list of certified minority, women, emerging small business or disadvantaged business enterprises from the Oregon State Office of Minority, Women and Emerging Small Business (OMWESB) by visiting their website.

Lastly, the Purchasing Office continually seeks opportunities to expand access for MWESB/DBE who want to do business with the City. Staff attend events like reverse vendor fairs that allow local vendors an opportunity to interface with purchasing staff and learn more about the City's procurement practices. Staff recently attended the Governor's marketplace conference in Salem hosted by the Governor's Office of Economic and Business Equity. City solicitations are posted on the City's website and in trade publications. Solicitations are also posted to the Oregon

Procurement Information Network, which actively promotes the inclusion of MWESBs for bid solicitations.

Currently the City's financial software is unable to track purchasing activity with MWESB/DBE. However, it is a goal of the Purchasing Office to include such a feature in the future as staff works on a purchasing software upgrade in the next several years.

RELATED CITY POLICIES

Eugene Code 2.1400 Public Contracts

Public Contract Administrative Rule R-1415 44-08-06-F

Article 6 General Rules for Solicitations

6.2.3 Subcontracting to Emerging Small Businesses

6.2.4 Affirmative Action; Disadvantaged Business Enterprise Program

COUNCIL OPTIONS

Informational session only.

CITY MANAGER'S RECOMMENDATION

Information only; no recommendation.

SUGGESTED MOTION

None.

FOR MORE INFORMATION

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